

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

KIPTON FLEMING,)	
)	
Plaintiff,)	
vs.)	NO. CIV-05-1502-T
)	
GEO GROUP, INC., et al.,)	
)	
Defendants.)	

ORDER


Plaintiff, a state prisoner appearing *pro se*, brought this action pursuant to 42 U. S. C. § 1983, alleging that his Eighth Amendment rights have been violated as a result of his exposure to environmental tobacco smoke. In accordance with 28 U. S. C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach for initial review. On November 17, 2006 Judge Bacharach filed a Report and Recommendation [Doc. No. 23] in which he recommended that the action be dismissed without prejudice because plaintiff failed to exhaust his available administrative remedies prior to filing this lawsuit.

In the Report and Recommendation, the magistrate judge advised plaintiff of his right to object to same and scheduled a December 7, 2006 deadline for filing objections. He further advised plaintiff that his failure to timely object would constitute a waiver of his right to appellate review of the findings and conclusions in the Report and Recommendation. Plaintiff filed an application for an extension of time in which to file objections, and the undersigned granted an extension until January 6, 2007 in its December 13, 2006 order [Doc. No. 27].

Plaintiff's extended deadline of January 6, 2007 has expired, and plaintiff has not filed an objection to the Report and Recommendation. Accordingly, the Report and Recommendation [Doc. No. 23] is adopted as though fully set forth herein. This action is dismissed without prejudice to the

filing of a new lawsuit after plaintiff fully exhausts the available administrative remedies.

IT IS SO ORDERED this 18th day of January, 2007.



RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE